

THE WESTERN PACIFIC RAILROAD COMPANY

WESTERN PACIFIC BUILDING, 526 MISSION STREET
SAN FRANCISCO, CALIFORNIA 94105
TELEPHONE (415) 982-2100

WALTER G. TREANOR
VICE PRESIDENT-LAW

KATHERINE M. GRIFFIN
GENERAL ATTORNEY
MICHAEL P. HEARNEY
EUGENE J. TOLER
ATTORNEYS

July 18, 1979

File: 6116-59

8-204A039

DELIVERED TO:

Honorable H. G. Homme, Jr.
Secretary

Interstate Commerce Commission
Washington, D.C. 20423

RECORDATION NO. 7706 A Filed 1425

JUL 23 1979 - 12 50 PM

INTERSTATE COMMERCE COMMISSION

DATE JUL 23 1979

Fee \$ 10.00

ICC Washington, D. C.

Dear Sir:

Enclosed for recording with the Interstate Commerce Commission are the original and two (2) certified true copies of an Assignment and Assumption Agreement dated April 4, 1979 between The Western Pacific Railroad Company, a California corporation, 526 Mission Street, San Francisco, California 94105 as Assignor and The Western Pacific Railroad Company, a Delaware corporation (formerly Newrail Company, Inc.) as Assignee, 526 Mission Street, San Francisco, California 94105 wherein the Assignor assigned and the Assignee assumed that certain Lease of Railroad Equipment dated as of October 15, 1974 between U. S. Trust Company of New York, 130 John Street, New York, New York 10038, as Lessor and Assignor as Lessee. The Lessor's interest in such lease was assigned to Mercantile-Safe Deposit and Trust Company, P. O. Box 2258, Baltimore, Maryland 21203. Prior recording data:

<u>Document</u>	<u>Date</u>	<u>Recordation No.</u>
Lease of Railroad Equipment	October 15, 1974	7706
Assignment of Lease	October 15, 1974	7706

The document relates to the following railroad equipment:

- 65 100-ton covered hopper cars manufactured by ACF Industries, Incorporated; AAR mechanical designation LO; Road numbers WP 11901-11965, both inclusive.
- 60' 100-ton covered hopper cars manufactured by PACCAR, Inc., AAR mechanical designation XLI; Road numbers WP 67042-67051, both inclusive.

10
JUL 23 12 47 PM '79
FEE \$10.00
RECEIVED

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Page 2

Identifying marks on all of the foregoing equipment:
The words "Western Pacific" and the words "Ownership
subject to a Security Agreement Filed under the
Interstate Commerce Act, Section 20C" printed on each
side of each unit.

Also enclosed is this Company's voucher in the sum
of \$10.00 payable to the Interstate Commerce Commission
being the prescribed fee for filing and recording the
foregoing document.

Please return the original and counterpart with
recordation data stamped thereon to the representative
of the office of Kunkel Transportation Services, Inc.,
425 - 13th Street, N.W., Suite 523, Washington, D.C. 20004,
who will be delivering this letter on our behalf.

Yours very truly,

Katherine M. Griffin

Katherine M. Griffin

KMG:jc

Attachments

July 79

THE WESTERN PACIFIC RAILROAD COMPANY

CHECK NO. 42820

INVOICE DATE	INVOICE NO.	AMOUNT	DISCOUNT	NET AMOUNT	DUE DATE
File Fee		10.00		10.00	

JUL 23 1979 - 12 50 PM

ASSIGNMENT AND ASSUMPTION AGREEMENT INTERSTATE COMMERCE COMMISSION1. PARTIES

This Assignment and Assumption Agreement is made this fourth day of April, 1979, between THE WESTERN PACIFIC RAILROAD COMPANY, a California corporation (Assignor), and THE WESTERN PACIFIC RAILROAD COMPANY, a Delaware corporation, formerly named Newrail Company, Inc. (Assignee).

2. FACTS

2.1 Assignor is party to a Lease of Railroad Equipment with United States Trust Company of New York, which assigned its interest therein to Mercantile Safe Deposit & Trust Company, effective October 15, 1974, recorded with the Interstate Commerce Commission on November 13, 1974, Recordation No. 7706, hereinafter referred to as the "Agreement."

2.2 By a Purchase and Sale Agreement dated February 16, 1978, Assignor has agreed to sell substantially all of its assets, properties and rights of every kind and description, and business as a going concern to Assignee, and Assignee has agreed to assume, with certain exceptions, all of the duties, liabilities and obligations of Assignor.

2.3 Pursuant to the Agreement described in Paragraph 2.2, Assignor desires to assign its interest in the Agreement,

and Assignee desires to assume the obligations of Assignor thereunder.

3. ASSIGNMENT AND ASSUMPTION

3.1 Assignment. Assignor hereby sells, assigns and transfers to Assignee, its successors and assigns, all of its right, title and interest under the Agreement.

3.2 Assumption. Assignee hereby assumes and agrees to perform, fulfill and discharge in accordance with the terms of the Agreement, at the sole cost of Assignee, each and all of the obligations, covenants, terms and conditions to be kept or performed by Assignor under the Agreement, including, but not limited to (if applicable), Basic Rent, all Supplemental Rent and Casualty Value. Assignee will, at its sole cost and expense, appear in and defend every action or proceeding arising under, growing out of, or in any way resulting from, the Agreement, or the duties, obligations or covenants of Assignor thereunder, and to pay any and all amounts for which Assignor or Assignee may be held liable in respect thereof, including the payment of all reasonable attorneys' fees incurred by Assignor in any such action or proceeding.

4. APPOINTMENT OF ATTORNEY IN FACT

Assignor hereby irrevocably appoints Assignee as its true and lawful attorney, irrevocably, with full power to ask for, and receive, any property, or refund monies to which Assignor is entitled under the Agreement, or to enforce any and all other rights or privileges of Assignor under the Agreement.

5. MISCELLANEOUS

5.1 Assignee shall notify all other parties to the Agreement of this Assignment and Assumption Agreement, and shall cause this Assignment and Assumption Agreement to be recorded with the Interstate Commerce Commission promptly after the execution and delivery hereof.

5.2 Any provision of this Assignment and Assumption Agreement which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability, without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction. To the extent permitted by applicable law, Assignor hereby waives any provision of law

which renders any provision hereof prohibited or unenforceable
in any respect.

ASSIGNOR:

THE WESTERN PACIFIC RAILROAD
COMPANY, a California corporation

By *W. Schumbo, Jr.*

Its Sr. Vice President - Finance

Attest *T. D. Brew*

Its SECRETARY

ASSIGNEE:

THE WESTERN PACIFIC RAILROAD
COMPANY, a Delaware corporation
(formerly named Newrail Company,
Inc.)

By *W. Schumbo, Jr.*

Its Sr. Vice President - Finance

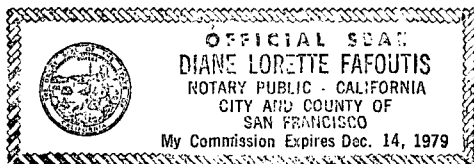
Attest *T. D. Brew*

Its SECRETARY

STATE OF CALIFORNIA)
) ss
CITY AND COUNTY OF SAN FRANCISCO)

ON April 2, 1979, before me, the undersigned, a Notary Public in and for the said State, personally appeared R. W. STUMBO, JR. and W. D. BREW, known to me to be the persons who executed the within Instrument, on behalf of the corporation therein named, and acknowledged to me that such corporation executed the within Instrument pursuant to its bylaws or a resolution of its Board of Directors.

WITNESS my hand and official seal.

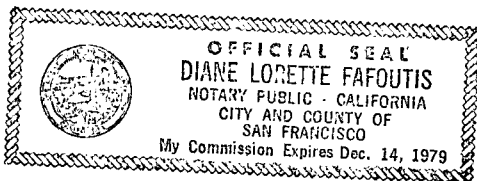


Diane Lorette Fafoutis
Notary Public in and for said State

STATE OF CALIFORNIA)
) ss
CITY AND COUNTY OF SAN FRANCISCO)

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